

## Message Text

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ACTION L-01

INFO OCT-01 SS-14 ISO-00 NEA-07 NSC-05 NSCE-00 SP-02 EB-03

OMB-01 TRSE-00 INR-05 CIAE-00 IO-03 /042 W

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R 070942Z JUL 76

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 6991

S E C R E T SECTION 1 OF 2 NEW DELHI 9954

LIMDIS

E.O. 11652: XGDS 1

TAGS: PGOV, PFOR, IN

SUBJECT: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD: US  
PROPOSAL FOR INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS

REF: DELHI 6348

BEGIN SUMMARY. NEW DELHI'S 6348 RESPONDED TO THE DEPARTMENT'S REQUEST FOR AN INVENTORY OF INDIAN STATUTES RELATING TO CORRUPTION. OUR CONCERN IS THAT THIS COMPREHENSIVE INVENTORY MAY GIVE THE MISLEADING IMPRESSION THAT CORRUPTION/ILLEGAL PAYMENTS ARE WELL UNDER CONTROL IN INDIA. IN FACT, THE OPPOSITE IS TRUE. CORRUPTION IN INDIA AFFECTS VIRTUALLY EVERY TRANSACTION OF ANY SIZE, DOMESTIC AND EXTERNAL. MOREOVER, WHILE THERE HAS BEEN A REDUCTION IN SMUGGLING AND ILLEGAL REMITTANCES AND SOME CUTS IN TAX EVASION, THERE IS NO INDICATION THAT OTHER FORMS OF CORRUPTION ARE DECREASING SINCE THE IMPOSITION OF THE EMERGENCY. ONE COULD EASILY COME TO THE CYNICAL CONCLUSION THAT THERE IS A DIRECT AND POSITIVE RELATIONSHIP BETWEEN LAWS AGAINST CORRUPTION AND THE EXTENT OF CORRUPTION ITSELF, I.E., EACH SUCH LAW ONLY MEANS THAT THERE ARE MORE PEOPLE TO BRIBE.

IT IS IMPOSSIBLE FOR US TO EXTRAPOLATE THIS PICTURE TO OTHER SOUTH ASIAN COUNTRIES MUCH LESS OTHER DEVELOPING COUNTRIES. IT WOULD SURPRISE US, HOWEVER, IF

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THE PICTURE WERE DIFFERENT ELSEWHERE, OTHER THAN IN DEGREE.

ONE INDICATION OF THIS IS THE EXTENT OF INDIAN BRIBE PAYMENTS TO OBTAIN CONTRACTS/EXPORTS IN OTHER COUNTRIES. OUR CONCLUSION FROM ALL OF THIS IS THAT USG POLICY IS ONCE AGAIN APPROACHING A CULTURAL/POLITICAL/ECONOMIC FACT OF LIFE IN AN ANGLO-SAXON LEGALISTIC MANNER AND THAT THE ECOSOC CODE IS AN EXERCISE IN FUTILITY. IF SUCH A CODE AND/OR DOMESTIC LEGISLATION IS PASSED, US FIRMS IN INDIA WOULD PROBABLY LOSE SOME BUSINESS WHILE INDIA GOES ON AS BEFORE. WE SUSPECT IT WILL BE THE SAME ELSEWHERE. END SUMMARY

1. IT IS IMPOSSIBLE IN ANY SINGLE MESSAGE TO GIVE A DESCRIPTION OF THE EXTENT AND MODALITIES OF CORRUPTION IN

INDIA. ENTIRE BOOKS HAVE BEEN WRITTEN ON THIS SUBJECT AND THERE IS LITTLE DOUBT BUT THAT THESE ONLY DEALT WITH THE TIP OF THE ICEBERG. IT SHOULD BE ADDED THAT CORRUPTION IS NOT A PHENOMENON WHICH WAS BROUGHT TO INDIA BY THE WEST. KAUTILYA, THE ANCIENT PHILOSOPHER, IN HIS TREATIES ARTHASASTRA REFERS TO VARIOUS KINDS OF CORRUPTION AND PRESCRIBES CORRESPONDING PUNISHMENTS. NOR IS CORRUPTION CONFINED TO THE BUSINESS OR POLITICAL WORLD. HINDU AND OTHER RELIGIOUS SHRINES IN INDIA HAVE LONG BEEN KNOWN FOR THEIR CORRUPT PRACTICES.

2. NO MEANINGFUL STATISTICS CAN BE PROVIDED ON THE EXTENT OF CORRUPTION. A GOVERNMENT INQUIRY COMMITTEE IN 1971 CAME TO THE GUESS THAT "BLACK MONEY" TRANSACTIONS ACCOUNTED FOR ABOUT 23 PERCENT OF GNP. WHETHER OR NOT THIS ESTIMATE WAS MEANINGFUL, THERE IS NO ONE IN INDIA WHO WOULD DISPUTE THAT THE SO-CALLED PARALLEL ECONOMY WAS A MAJOR FACTOR ON THE ECONOMIC SCENE. THIS HAS DECLINED SOMEWHAT IN THE LAST YEAR OR SO AS THE RESULT OF SOME REDUCTION IN SCARCITIES, AT LEAST FOR THOSE WHO CAN AFFORD TO MAKE PAYMENTS, AND SOME RATIONALIZATION OF TAXATION AND OTHER ECONOMIC CONTROLS.

3. THIS BRINGS ONE TO THE PRINCIPAL REASON NORMALLY CITED FOR THE EXTENT OF CORRUPTION IN INDIA, I.E., SCARCITY. SCARCITY IS MORE THAN A SHORTAGE OF GOODS OR FOOD, IT ENCOMPASSES A SCARCITY OF JOBS, OF OPPORTUNITIES AND A PLETHORA OF CONTROLS. THERE ARE PROBABLY FEW COUNTRIES WHICH HAVE TIGHTER CONTROLS ON  
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ALL ASPECTS OF ECONOMIC LIFE. THESE RANGE FROM OMNIPRESENT LICENSING, CONFISCATORY TAXATION TO A CHECKS AND BALANCES SYSTEM WHICH IS DESIGNED TO MAKE ANY FORM OF CORRUPTION IMPOSSIBLE. ALL OF THIS PANOPLY HAS BUT ONE AMID, SOCIAL JUSTICE, AND BUT ONE PRINCIPAL RESULT, SOCIAL INJUSTICE. FOR EVERY CONTROL, HOWEVER, THERE IS AN EVASION, FOR EVERY DOCUMENT WHICH REQUIRES THREE SIGNATURES WHEN ONE WOULD HAVE BEEN SUFFICIENT THERE ARE THREE BRIBES INSTEAD

OF ONE.

4. INDIANS NORMALLY DISTINGUISH BETWEEN DIFFERENT FORMS OF CORRUPTION BUT THE DISTINCTION WHICH IS MADE HAS NO LEGAL BASE. FOR EXAMPLE, VIRTUALLY ALL TRANSACTIONS REQUIRE "SPEED MONEY", A SMALL PAYMENT REQUIRED TO MOVE PAPERS, SECURE ADMISSION TO A HOSPITAL, OBTAIN A TRAIN TICKET, ETC. THIS IS ILLEGAL BUT NOT CONSIDERED CORRUPT SINCE IT IS SUPPOSED TO BALANCE THE NIGGARDLY INCOME NORMALLY GIVEN TO RECIPIENTS OF SUCH PAYMENTS. SIMILARLY, NEPOTISM, WHETHER IT BENEFITS ONE'S FAMILY, CASTE OR LANGUAGE OR REGIONAL GROUP IS CONSIDERED ACCEPTABLE.

5. THE DIVIDING LINE BETWEEN ACCEPTABLE AND REPREHENSIBLE TRANSACTIONS SEEMS TO BE GOVERNED IN PART BY AMOUNT. LARGE PAYMENTS, WHETHER OR NOT LEGAL, ARE CONSIDERED "BAD". FURTHERMORE, A DISTINCTION IS OFTEN MADE BETWEEN CORRUPTION FOR POLITICAL PURPOSES AND THAT FOR PERSONAL PURPOSES. IT IS MORE ACCEPTABLE TO TAKE MONEY FOR THE CONGRESS PARTY THAN FOR ONE'S OWN PERSONAL COMFORT. WHILE IT IS ILLEGAL FOR A CORPORATION TO MAKE A CONTRIBUTION TO A POLITICAL PARTY IT IS PERFECTLY LEGAL FOR THE SAME CORPORATION TO MAKE AN EQUAL PAYMENT TO THE PRIME MINISTER'S RELIEF FUND OR OTHER ORGANIZATION WHICH ESSENTIALLY SERVE THE SAME PURPOSE. IT IS LEGAL TO PURCHASE ADVERTISING IN PARTY PUBLICATIONS WHETHER OR NOT THEY ARE EVER PUBLISHED. FOR THE ANGLO SAXON MIND AND THE TREASURER OF A MULTINATIONAL CORPORATION THESE DISTINCTIONS ARE IMPORTANT. TO THE INDIAN REALIST THEY ARE SOPHISTRIES.

6. IT HAS LONG BEEN THE PRACTICE, AND CONTINUES TO BE THE CASE TODAY, THAT EVERY LARGE FIRM AND MOST SMALL ENTERPRISES ARE APPROACHED FOR THEIR CONTRIBUTION TO INDIA'S "UNITED GIVERS FUND", THE CONGRESS PARTY.

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THE COLLECTORS VARY, SOMETIMES THEY ARE THE POLITICIANS THEMSELVES, SOMETIMES A "BAGMAN" FOR THE PARTY, SOMETIMES, MOST RECENTLY, EVE A BUREAUCRAT. AT THE MOMENT K.K. BIRLA IS KNOWN AS THE PRIMARY COLLECTOR BUT NEXT YEAR IT COULD BE SOMEONE DIFFERENT. THE FORM OF CONTRIBUTION IS NORMALLY, THOUGH NOT ALWAYS, CASH. CONTRIBUTIONS ARE ALSO MADE IN KIND SUCH AS PROVISION OF VEHICLES, HOUSING, ETC. TO PARTY OFFICIALS NOT TO SPEAK OF MORE PERSONAL SERVICES SUCH AS THOSE WHICH RECENTLY HIT THE HEAIWZTQMBDYAN NPBINGTON. #

7. THE FOREIGNER IS AN ACTIVE PARTICIPANT IN THIS FORM OF ACTIVITY, AND IN MANY WAYS IS A PREFERRED PLAYER. TO THE EXTENT THAT HE OPERATES DOMESTICALLY HE SOON LEARNS TO CONFORM IN ORDER TO SAY IN BUSINESS. HE PREFERS "LEGAL" FORMS OF CONTRIBUTIONS AND THESE CAN BE PROVIDED. HOWEVER,

HE HAS ONE ACE TO PLAY, FOREIGN RESOURCES. A CONTRIBUTION OF FOREIGN EXCHANGE IN A FOREIGN BANK ACCOUNT IS OF HIGH VALUE AND NORMALLY ACCOMPANIES ANY MAJOR INTERNATIONAL TRANSACTION.

NOTE BY OC/T: NEW DELHI 9954 SEC 1/2 GARBLED TEXT LAST LINE PARA 6, CORRECTION TO FOLLOW

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8. A FEW EXAMPLES MAY BE HELPFUL. A WORLD BANK OFFICIAL WITH EXTENSIVE EXPERIENCE IN INDIA RECENTLY TOLD AN EMBOFF THAT HE HAD NEVER SEEN A CASE WHERE AN ORIGINAL LOW BIDDER EVER RECEIVED A CONTRACT. THE WORLD BANK REQUIRES THE AWARD OF CONTRACTS TO THE LOW BIDDER BUT REPEATED TENDERINGS COMBINED WITH SPECIFICATION CHANGES ARE INSTITUTED BY THE GOI UNTIL THE APPROPRIATE BIDDER BECOMES LOW BIDDER AS WELL. RECENTLY A BRITISH AIRCRAFT CORPORATION TEAM THAT VISITED INDIA TO COMPETE AGAINST DUTCH AND AMERICAN AIRCRAFT SUPPLIERS WAS APPROACHED AND OFFERED THE ASSISTANCE OF THE MARUTI COMPANY, A FIRM CONTROLLED BY SANJAY GANDHI. BAC REPLIED THAT SOMETHING COULD CERTAINLY BE WORKED OUT. DUTCH, SWISS AND FRENCH FIRMS ARE EQUALLY KNOWN FOR THEIR WILLINGNESS TO MAKE CONTRIBUTIONS.

9. CONTRIBUTIONS DO NOT ALWAYS GUARANTEE SUCCESS AND CAN BACKFIRE. IN ONE CASE AN INDIAN MANUFACTURER PAID A SUBSTANTIAL BRIBE TO THE MINISTER OF CIVIL AVIATION FOR A PARTICULAR CONTRACT. LATER THE PROJECT BECAME A SOURCE OF CONTROVERSY FOR REASONS WHICH HAD NOTHING TO DO WITH THE BRIBE. THE MINISTER SOUGHT TO RETURN THE BRIBE BUT THE DONOR INSISTED ON INTEREST. A COMPROMISE WAS REACHED WHEREBY

AN ADDITIONAL CONTRACT WAS AWARDED THE MANUFACTURER.

10. OF COURSE THERE IS PUNISHMENT FOR SOME BRIBE TAKERS. NEARLY EVERY DAY ONE READS ABOUT A CONSTABLE OR CLERK WHO HAS BEEN ARRESTED FOR TAKING A BRIBE. LITTLE IS HEARD OF  
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THE OUTCOME THOUGH ONE IS TOLD THAT MOST ARE RE-EMPLOYED AFTER A FEW WEEKS. PUNISHMENT OF THOSE WHO TAKE PAYMENTS FOR THE CONGRESS PARTY IS RARE, BUT THE REVERSE IS TRUE IF ONE HAS THE MISFORTUNE TO BECOME THE OPPOSITION, AS IN TAMIL NADU.

11. THERE ARE AT LEAST TWO REASONS WHY "THE TOP" PROTECTS THIS SYSTEM. FIRST, MOST OF THE FUNDS SO COLLECTED ARE IN FACT GIVEN TO THE PARTY MINUS A "COMMISSION" FOR THE COLLECTOR. SECOND, IT PROVIDES A HANDY HOLD ON VIRTUALLY EVERY POLITICIAN. CORRUPTION FILES ARE ACCORDINGLY KEPT IN THE PRIME MINISTER'S OFFICE AND NO CHARGES AGAINST ANY MAJOR FIGURE CAN BE INSTITUTED WITHOUT HER PERSONAL APPROVAL.

12. OVER THE PAST YEAR A NEW DEVELOPMENT HAS COMPLICATED THE ABOVE PATTERN. IN THEIR SEARCH FOR INTERNATIONAL BUSINESS, INDIANS ARE SEEKING AND OBTAINING INTERNATIONAL CONTRACTS IN MANY OTHER COUNTRIES, PARTICULARLY THE MIDDLE EAST. THEY TELL US THAT THEY ARE "OUTRAGED" BY THE EXTENT OF BRIBES REQUIRED, 30-40 PERCENT IS NOT UNCOMMON. NOT ONLY IS SUCH SCALE BRIBERY EXCESSIVE TO INDIANS, IT ALSO POSES PRACTICAL PROBLEMS SINCE THE COLLECTOR IN THESE CASES REQUIRES PAYMENT IN FOREIGN EXCHANGE OUTSIDE INDIA. AS A RESULT THE RESERVE BANK HAS AMENDED ITS PROCEDURES SO THAT INDIAN IS NOT PUT AT A COMPETITIVE DISADVANTAGE.

13. THE ABOVE IS NOT AN ATTEMPT TO SHOCK ANYONE, MUCH LESS AN EFFORT TO MINIMIZE THE SOCIAL HARM CAUSED BY CORRUPTION. AND, AS WE HAVE SAID, WE DOUBT THAT THE SITUATION HERE IS ANY DIFFERENT FROM THAT ELSEWHERE IN ASIA. THE BENEFICIARIES OF THE SYSTEM ARE "THE HAVES" AND THE LOSERS "THE HAVE-NOTS". THE LOSERS RECEIVE SUBSTANDARD AND ADULTERATED GOODS, BUILDINGS AND DAMS WHICH COLLAPSE AND NON-EXISTENT SERVICES. THE WINNERS OBTAIN A MERCEDES AND SEND THEIR CHILDREN TO HARVARD.

14. OUR ONLY POINT, AND IT IS ONE WHICH WE WISH TO MAKE STRONGLY, IS THAT INTERNATIONAL CODES OF BEHAVIOR WILL NOT CHANGE THIS REALITY. IT HAS BEEN OUR EXPERIENCE THAT US FIRMS ARE SLIGHTLY MORE HONEST THAN THEIR DEVELOPED  
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COUNTRY COMPETITORS, THOUGH THE PUBLIC RECORD MIGHT NOT  
SUPPORT THIS THESIS. HOWEVER, THE MORE WE TALK OF  
PROMOTING HONESTY THE MORE SUSPICIOUS THE FOREIGNER IS  
THAT WE ARE EVEN MORE CORRUPT THAN WE IN FACT ARE.  
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## Message Attributes

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